

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division

JOE LEE FULGHAM, #170034,

Petitioner,

v.

CONSOLIDATED ACTION NO. 2:16cv1

JACK BARBER, M.D.,  
Interim Commissioner, Virginia Department of  
Behavioral Health and Development Services,

Respondent.

**FINAL ORDER**

Following the District Court's dismissal of Petitioner Joe Lee Fulgham's habeas petitions on September 23, 2016, (ECF No. 87), Mr. Fulgham filed a Motion to Reconsider (ECF No. 90) under Federal Rule of Civil Procedure 59(e) and a Notice of Appeal (ECF No. 91). Mr. Fulgham is a resident of the Virginia Center for Behavioral Rehabilitation, and his petitions challenge his involuntary civil commitment as a sexually violent predator ("SVP") under Virginia Code § 37.2-900. As a result of Mr. Fulgham's pending Motion to Reconsider, the United States Court of Appeals for the Fourth Circuit notified the District Court that it will "treat the notice of appeal as filed as of the date the district court disposes of such motion, and will docket the appeal following disposition of the motion." ECF No. 93.

The Motion to Reconsider was referred to a United States Magistrate Judge for report and recommendation pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72(b) of

the Federal Rules of Civil Procedure, and the Local Rules of this Court. The Report and Recommendation filed October 19, 2016 recommends denying Mr. Fulgham's Motion to Reconsider. Specifically, the Report found that Mr. Fulgham's claims are either time barred or procedurally defaulted, and that there has been no change in the facts or arguments presented, nor any error of law identified by Mr. Fulgham's request for reconsideration. Each party was advised of his right to file written objections to the findings and recommendations made by the Magistrate Judge. The Court received nineteen separate, but similar, submissions from Mr. Fulgham since the filing of the Report and Recommendation. One of these specifically references "14 days objections," which is construed as Mr. Fulgham's formal objection to the Report and Recommendation. ECF No. 116. The Respondent has filed no response to any of the objections or submissions, and the time for responding has now expired.

The Court, having reviewed the record, the Motion to Reconsider, and the objections filed by Mr. Fulgham to the Report and Recommendation, and having made *de novo* findings with respect to the portions objected to, does hereby adopt and approve the findings and recommendations set forth in the Report and Recommendation filed October 19, 2016. It is, therefore, **ORDERED** that Petitioner Joe Lee Fulgham's objections (considered *in toto* and referenced singularly as ECF No. 116) are overruled, and his Motion to Reconsider (ECF No. 90) is **DENIED**.

Petitioner is hereby notified that he may appeal from the Judgment entered pursuant to this Final Order by filing a Notice of Appeal with the Clerk of this Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of the Judgment.

Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right. Therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of

the Federal Rules of Appellate Procedure. *See Miller-El v. Cockrell*, 123 S. Ct. 1029, 1039 (2003).

The Clerk is REQUESTED to please mail a copy of this Final Order to Mr. Fulgham, and provide an electronic copy of the Final Order to counsel of record for Respondent.



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Arenda L. Wright Allen  
United States District Judge

Norfolk, Virginia

11/18, 2016